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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,587	12/15/2003	Christopher T. Evans	UNION STREET	1402
7590	07/26/2006		EXAMINER KUMAR, RAKESH	
James C. Wray Suite 300 1493 Chain Bridge Road McLean, VA 22101			ART UNIT	PAPER NUMBER
			3654	

DATE MAILED: 07/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/734,587		EVANS ET AL.	
	Examiner		Art Unit	
	Rakesh Kumar		3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Restriction Election 05/04/2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 11-14, 18 and 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 15-17 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>03/23/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Claims 11-14, 18 and 19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claims. Applicant timely traversed the restriction (election) requirement in the reply filed on 05/04/2006.

Applicant's election with traverse of claims 1-10, 15-17 and 20 in the reply filed on 05/04/2006 is acknowledged. The traversal is on the ground(s) that there is no burden on the examiner to examine all the species. This is not found persuasive because the consideration of diverse issues of patentability related to each of the species would constitute a serious burden on the examiner if all species were examined together.

The requirement is still deemed proper and is therefore made FINAL.

Specification

The disclosure is objected to because of the following informalities: In the specification page 8 line 19 the applicant discloses a "dispensing mechanism 31" however no such member element is disclosed in the drawings, it is suggested either the references to member 31 be removed or be disclosed in the drawing. Appropriate correction is required.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: In the specification page 8 line 19 the applicant discloses a “dispensing mechanism 31” however no such member element is disclosed in the drawings.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character “1” has been used to designate both a package (Specs page 9 line 5) and a container (Specs page 9 line 10). It is suggested that the same member name for the disclosed member element be used throughout the disclosure in the specifications. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-10 and 15-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Referring to claim 1. Claim 1 recites the limitation "the lever" on line 3. There is insufficient antecedent basis for this limitation in the claim.

Referring to claim 1. Claim 1 recites the limitation "a tip of the extension" on line 4 and recites the limitation "the extension tip" on line 6. It is unclear whether "a tip of the extension" is the same as the "the extension tip." It is generally understood and broadly construed by the Examiner to mean the limitations define the same extension tip.

Referring to claim 3. Claim 3 recites the limitation "the lever" on line 2. It is unclear whether the discloser of "the lever" in claim 3 is the same as "the lever" disclosed in claim 1 line 3 or is the "a lever" as disclosed in claim 2 line 1 as being the cover. It is generally understood and broadly construed by the Examiner to mean that there are two different levers, one defined by the cover and another characterized by the extension extending to the tip. Action is required to clarify the disclosure.

Referring to claim 5. Regarding claim 5, see claim 3.

Referring to claim 4. Claim 4 recites the limitation "is one a side" on line 2. It is unclear as to what is meant by the disclosed limitation. It is generally understood and broadly construed by the Examiner to mean, "is on one side" as referring to the position of the friction surface.

Referring to claim 15. Claim 15 recites the limitation "a dispensing opening" on line 2 and "the opening" on line 7. It is unclear whether the "a dispensing opening" is the same opening as the "the opening" recited in the claim. Appropriate action is required.

Referring to claim 15. Claim 15 recites the limitation "the lip" on line 11. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Leopoldi (U.S. Patent Number 4,071,165).

Referring to claim 1. Leopoldi discloses a sheet dispenser comprising a container for holding at least one movable strip (top most sheet 12; Figure 4), a cover (17) connected to the container, an extension connected to the lever (22) and extending into the container, a tip of the extension having a friction surface (29) for engaging the at least one strip within the container (top most sheet 12; Figure 4), whereby moving the cover (17) moves the extension tip (29) in the container and slides the extension tip (29) outward from the container (see Figure 4).

Referring to claim 2. Leopoldi discloses a sheet dispenser wherein the cover (17) is a lever (22) pivoted on a hinge (pivoted at member 24; Figure 4) connected to the container.

Referring to claim 3. Leopoldi discloses a sheet dispenser wherein the extension (29) extends in a direction from the hinge (pivoted at member 24; Figure 4) opposite a direction of the lever (22).

Referring to claim 4. Leopoldi discloses a sheet dispenser wherein the friction surface (surface of member 29) is on one side of the extension opposite from the top of the lever (see Figure 4).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-10,15-17 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leopoldi as applied to claim 1-4 above, and further in view of V. H. Pollock (U.S. Patent Number 933,663).

Referring to claims 5,6 and 8. See claims above. Pollock discloses a ticket dispenser (Figure 1) comprising a dispensing opening (18) at one end of the container (see Figure 1) and a closure (19) connected to the lever (cover 2) for moving with the lever (cover 2) and closing the opening when the lever is aligned with the container (1), and for uncovering the opening when an end the lever is moved away from the container (1; Figure 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made, to modify the apparatus of Leopoldi to include a closure element connected to the lever to open and close the cover of the container as taught by the teaching of Pollock because having an uncovering means for the container would prevent debris from entering the housing compartment.

Referring to claim 7. Regarding claim 7, Leopoldi discloses a high friction surface tip to be disposed on edge of the lever to disengage the topmost sheet from the remainder of the stack. It is generally understood in the art that incorporating a high

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friction tip would result in the removal of the sheet by the frictional contact there between. It is further, general in knowledge that a tip with low or a reduced friction surface would slide over the topmost sheet without any lateral movement of the topmost sheet. It would have been obvious to one of ordinary skill in the art at the time the invention was made, to modify the teaching of Leopoldi in view of Pollock to include a high friction tip at the end of the lever such that one side of the tip surface comprises a high friction material while the opposite side of the tip surface comprises a low friction material enabling the lever to slide over the topmost sheet during the return stroke, such a selection would be well within the level of skill of an artisan.

Referring to claim 9. Pollock discloses a ticket dispenser (Figure 1) wherein the dispensing opening (18) extends substantially over an entire end of the container (1).

Referring to claim 10. Leopoldi discloses a sheet dispenser wherein the lever (22 extension) comprises a lid (17) hinged at one end to a central portion (23) of a top of the container (17) and extending outward the opening in the end of the container (lever 22 extends outward) for exposing at least a portion of the stack (12) of strips in the container (10).

Referring to claims 15-17 and 20. See above. Although Leopoldi in view of Pollock do not explicitly disclose a method of using their apparatus, the method steps recited in the claim would inherently be performed when using the apparatus of Leopoldi in view of Pollock in their usual and expected fashion.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rakesh Kumar whose telephone number is (517) 272-8314. The examiner can normally be reached on 8:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RK

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July 7, 2006

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